

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

DAN DOWN)	
Claimant)	
VS.)	
)	Docket No. 230,435
M-PACT WORLDWIDE)	
Respondent)	
AND)	
)	
CHUBB INSURANCE CO. OF NEW JERSEY)	
Insurance Carrier)	

ORDER

Respondent appealed the May 12, 1998, preliminary hearing Order for Compensation entered by Assistant Director Brad E. Avery.

ISSUES

The Assistant Director found claimant suffered an accidental injury that arose out of and in the course of his employment and granted claimant's request for medical and temporary total disability compensation. Respondent contends claimant failed to present evidence at the preliminary hearing to prove he suffered a work-related accident.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the preliminary hearing record and considering the briefs of the parties, the Appeals Board finds as follows:

The issue raised by the respondent is a jurisdictional issue listed in K.S.A. 1997 Supp. 44-534a.

The Appeals Board finds the Assistant Director's preliminary hearing Order for Compensation should be affirmed.

The respondent had occupational medicine physician Michael J. Poppa, D.O., review claimant's medical treatment records. In a letter dated December 9, 1997, admitted into evidence at the preliminary hearing, Dr. Poppa found claimant's epididymitis condition¹ was caused by infection and not related to his employment. However, the Appeals Board finds claimant's testimony coupled with the opinion of his treating physician, urologist Jon J. Heeb, M.D., are more persuasive and prove that claimant's epididymitis condition is related to claimant's employment with the respondent.

Claimant testified he started having pain in his groin area on September 22, 1997, while working for the respondent. He first noticed the pain as he was working in the stockroom pulling orders on a repetitive basis. The next day he notified respondent of the increasing pain, and the respondent provided him with initial medical treatment which eventually led him to urologist Jon J. Heeb, M.D.

Admitted into evidence at the preliminary hearing are three letters from Dr. Heeb dated November 25, 1997, January 20, 1998, and April 25, 1998. The doctor's diagnosis is right epididymitis related to the lifting claimant had to perform while working for the respondent. Dr. Heeb also took claimant off work from November 21, 1997, through December 15, 1997. In the letter dated April 25, 1998, Dr. Heeb believed claimant was in need of further medical treatment.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that Assistant Director Brad E. Avery's May 12, 1998, preliminary hearing Order for Compensation, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of July 1998.

BOARD MEMBER

c: Jack L. Heath, Topeka, KS
Mark E. Kolich, Kansas City, KS
Brad E. Avery, Assistant Director
Philip S. Harness, Director

¹Inflammation of the epididymis which is the elongated cordlike structure along the posterior border of the testis. Dorland's Illustrated Medical Dictionary, 566 (28th ed. 1994).